

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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INNOVATION VENTURES, LLC, ET AL,	:	
	:	12 Civ. 5354 (KAM) (RLM)
Plaintiffs,	:	
	:	
-against-	:	
	:	
ULTIMATE ONE DISTRIBUTING CORP., ET	:	
AL.	:	
	:	
Defendants.	:	
	:	
_____	X	
	:	
INNOVATION VENTURES, LLC, ET AL,	:	
	:	13 Civ. 6397 (KAM) (RLM)
Plaintiffs,	:	
	:	
-against-	:	
	:	
PITTSBURG WHOLESALE GROCERS INC.,	:	
ET AL.	:	
	:	
Defendants.	:	
	:	
_____	X	

DEFENDANTS' UNOPPOSED MOTION TO EXTEND DISCOVERY

Core-Mark International, Inc. (“Core-Mark”), along with defendants Baseline Distributors Inc. and David Flood, Purity Wholesale Grocers, Inc., Quality King Distributors, Inc., Universal Wholesale, Inc. and Joseph Sevany Sr. (a/k/a Joe Zaitouna), Valero Retail Holdings, Inc., Capital Sales Company, and Dan-Dee Company, Inc., Kevin Attiq and Fadi Attiq (collectively, “Moving Defendants”) respectfully request an extension of the current discovery schedule in the above-referenced matter.

Pursuant to the Court's scheduling order dated March 11, 2013 (Dkt. No 452), fact discovery closed on January 17, 2014. The Court entered an order granting Plaintiffs' and certain Moving Defendants' joint request to extend time to complete certain discovery in this action. (Dkt. 656). Recently, the Court has consolidated this action with the related action, *Innovation Ventures LLC, et al. v. Pittsburg Wholesale Grocers Inc., et al.*, 13-cv-06397-KAM-RLM. (Dkt. 680). Despite good faith efforts by Plaintiffs and the Moving Defendants, due to the witness's scheduling conflicts, the previously-scheduled deposition of Plaintiffs' 30(b)(6) witness had to be postponed and mediation with certain Moving Defendants was also postponed due to unavailability of the Plaintiffs' representative. Plaintiffs' 30(b)(6) deposition is currently scheduled to begin on April 8, 2014.

It is crucial that the Moving Defendants be able to incorporate Plaintiffs' 30(b)(6) deposition testimony into their expert disclosures. However, based on the existing schedule, defendants' expert disclosures would be due just three days after Plaintiffs' deposition is scheduled to begin. The length of Plaintiffs' 30(b)(6) deposition is currently undefined. In order to allow for defendants' expert disclosures to incorporate this testimony, and in order to continue settlement negotiations and mediation, Moving Defendants propose the following revised schedule:

- The deposition of Plaintiffs' corporate designee shall take place no later than April 11, 2014;
- No party shall be prevented from asking questions of Plaintiffs' corporate designee solely because the deposition is scheduled to occur after January 17, 2014;
- The deposition of Brian Nystuen shall be taken no later than April 11, 2014;

- Plaintiffs shall respond on or before May 31, 2014 to Core-Mark's First Set of Requests For Production of Documents, and Core-Mark's First Set of Interrogatories to Plaintiffs;
- Core-Mark shall respond on or before May 31, 2014 to Plaintiffs' First Set of Requests for Admission to Defendant Core-Mark and Plaintiffs' First Set of Interrogatories to Defendant Core-Mark;
- Baseline Distribution, Inc. ("Baseline") shall respond on or before May 31, 2014 to Plaintiffs' First Set of Requests for Admission to Defendant Baseline Distribution, Inc. and Plaintiffs' Second Set of Interrogatories to Baseline Distribution, Inc.;
- The deposition of Baseline's corporate designee shall take place after the mediation involving Baseline, but no later than June 6, 2014;
- Non-binding private mediations between Plaintiffs and each of the Moving Defendants, except for Dan-Dee Company, Inc., Kevin Attiq and Fadi Attiq, Capital Sales and Universal Wholesale Services Inc., must be completed by May 31, 2014;
- If a resolution is not reached through mediation or other means, fact discovery as between Plaintiffs and each of the Moving Defendants, except for Dan-Dee Company, Inc., Kevin Attiq and Fadi Attiq, Capital Sales and Universal Wholesale Services Inc., will close on May 31, 2014;
- Defendants' and third-party defendants' expert disclosures must be served by May 8, 2014; and
- Any reply expert reports shall be served by June 6, 2014; and
- Expert depositions shall be completed in New York, New York by June 30, 2014

The Moving Defendants believe that this proposed schedule will allow them to properly respond to Plaintiffs' expert disclosures and will be sufficient to allow for mediation between the parties.

CONCLUSION

For the foregoing reasons, Moving Defendants respectfully request that this Court extend the existing discovery schedule in this action as outlined above. Plaintiffs do not oppose this motion.

Dated: March 14, 2014

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